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## ***NPDES***

*National Pollutant Discharge Elimination System*

### **C O N T E N T S**

Procedure for Coal Related National Pollutant Discharge Elimination .....
Groundwater Protection Act and Regulations Guidelines .....
401 State Certification Program .....
SMCRA Permitting Changes.....
Chemical Reagents .....

**SUBJECT: Procedure for Coal Related National Pollutant Discharge Elimination System (“NPDES”)**

**DATE: January 1997**

See the NPDES Permitting Handbook for further details such as permitting requirements, procedures and policies.

Applicants are encouraged to meet with the regional office staff to discuss the proposed operations, especially those items which are time consuming, i.e., baseline water quality (BWQ) samples, drill holes, acid base accounting locations, etc. Applications that contain complete and accurate information will minimize the review time. Below is a brief description of what is required for a new or reissuance NPDES application for coal and related facilities.

**APPLICANT:**

- Submit one original and four copies of completed MR-5 application with all appropriate modules (*all types of NPDES application*) to the appropriate DEP Regional Office.
- Submit filing fee in the amount of \$1,000.00 for new application (MR-5) and \$1,000.00 for reissuance/renewal application. A \$500.00 filing fee is required for modifications. No filing fee is required for transfers.
- Submit proof of advertisement (*certification of publication*) for major modifications only.
- Submit proof of affected agencies notification (*affidavit*) for major modifications only.

**DEP:**

- Application is reviewed by the Regional NPDES Permit Writer
- Draft permit is prepared when application is deemed complete by Permit Writer.
- Applicant is notified in writing to being advertisement;
- Applicant is provided list of affected agencies to be notified;
- The following shall be prepared and forwarded to Headquarters:
  - Original EPA transmittal letter\*
  - one copy of the draft permit (*stamped “draft”*) \*
  - one copy of the fact sheet (*if required*)
  - one copy of the rationale page\*
  - one copy of application
  - PCS facility data cards
  - GPP tracking sheet

- \*Headquarters will forward EPA these items along with the advertisement form.
- One copy of application is made available for public review in regional office;
- Requests for public hearings received during comment period are to be forwarded to DMR Headquarters for consideration.
- Permit Writer responds to the applicant's comments to the Draft via certified mail. The Permit Writer prepares a response for the signature of the Director of DWWR for any public comments received during the comment period.
- Decision: The following items must be completed and included with original application and forwarded to Headquarters:
  - Proof of Advertisement
  - Affidavit of Notification to Affected Agencies
  - Response to Comments
  - Permit
  - Recommendations for issuance or denial

<b>SUBJECT:</b>	<b>Groundwater Protection Act and Regulations Guidelines</b>
<b>DATE:</b>	<b>March 1999</b>

*See the NPDES Permitting Handbook for further details such as permitting requirements, procedures and policies.*

- **Statutory authority Chapter 22, Article 12, of the State Code of West Virginia**
- **Regulatory authority Title 38, Series 2F, Groundwater Protection Rules Coal Mining Operations**
- **Regulatory authority Title 47, Series 58, Groundwater Protection Rule (non-coal)**

Groundwater Protection Plans (GPPs) are mandated under Chapter 12, Article 12, Section 5(d), and Title 38, Series 2F, Section 3. The implementation of the GPPs is specified in Section 3.3.2 of the regulations.

There will not be any distinct GPP permit or approval issued. GPPs that have been reviewed and approved by a NPDES Permit Writer will have the Permit Writer's initials and date on the GPP Application Form. After June 1, 1995, a copy of the GPP must be kept on-site or at the operator's nearest readily accessible office and made available to the inspector upon request, regardless of whether the GPP has been submitted for review.

Groundwater Protection Plans will be required with the submittal of all new and reissuance NPDES applications. NPDES modifications involving the addition of a new facility (SMA only), i.e., deep mine, refuse pile, etc. shall be accompanied by a revised GPP that includes the current GPPs plus the protection practices for the new activity incorporated therein.

**NOTE:** When the GPP is part of an Article 3, it is included in the PHC section and must appear in every SMCRA (Article 3) permit covered by a given NPDES permit. GPP is now Module 14 of Section K.

Although groundwater protection plans are a function of both the NPDES and SMCRA permitting process, the activities at a given site must meet, or have previously met, the definition of "surface mine", "surfacing mining" or "surface mining operations" as set forth in Chapter 22, Article 2, Section 3(w). These guidelines and Groundwater Protection Regulations (Title 38, Series 2F) apply only to those facilities that have a

SMCRA permit. If the facility does not satisfy this definition, the facility will be regulated under Title 47, Series 58, Groundwater Protection Regulations.

<b>SUBJECT:</b>	<b>401 State Certification Program</b>
<b>DATE:</b>	<b>March 1999</b>

*See the NPDES Permitting Handbook for further details such as permitting requirements, procedures, policies and compensation/mitigation guidelines.*

- Statutory authority Chapter 22, Article 1, Section 6 and Article 11, Section 7a of the State Code of West Virginia
- Regulatory authority Title 47, Series 5A, Regulations for State Certification of Activities Requiring Federal License and Permits

The discharge of fill material into waters of the United States require a permit and authorization from the U. S. Army Corps of Engineers to conduct such activity per Section 404 of the Clean Water Act.

An integral part of the Corp's regulatory program is the concept of Nationwide Permits for minor activities. These Nationwide Permits are activity specific. However, before such federal Nationwide Permits can be issued, the state must certify that such activity will comply with applicable state laws and regulations.

Section 401 of the Clean Water Act requires that any applicant for a federal license or permit to conduct an activity that will or may discharge into waters of the United States must present the federal authority with a certification from the State. The certification authority for West Virginia resides with the Secretary of the Department of Environmental Protection. The Department may consider the proposed activity's impact on water resources, fish and wildlife, recreation, critical habitats, wetlands, and other natural resources when granting the certification. Certification and any conditions required by the certification shall become a condition on any federal license or permit. If the state denies certification, then the federal license or permit shall not be granted.

<b>SUBJECT:</b>	<b>SMCRA Permitting Changes</b>
<b>DATE:</b>	<b>June 4, 1999</b>

Revisions and amendments are being made to the SMCRA Permit without coordination of the NPDES permit writers in the region. These permit changes are being submitted to the regional offices solely for SMCRA, and being processed and issued. Some of these SMCRA permitting changes may impact the NPDES or State 401 Programs, and thus require modifications to NPDES permits or compensation agreements under the State 401 Program.

When any type of SMCRA revision or amendment is submitted, a NPDES Permit Writer must review it to see if NPDES or State 401 Certification modifications are also needed. Anytime there is stream work involved, uphill or downhill expansions, deletions of bonded area, stream crossings etc. if will most likely require a State 401 modification. Adding additional coal seams, augering or highwall mining, additions or deletions of bonded area will most likely involve NPDES modifications.



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES  
**DIVISION OF ENVIRONMENTAL PROTECTION**

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**MEMORANDUM**

**TO:** Ed Griffith and Rocky Parsons  
**FROM:**  John C. Ailes, Jr.  
**DATE:** August 10, 1993  
**SUBJECT:** Flocculant Approval

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Please advise all permitting and I & E Field Personnel that effective immediately the only type of flocculant that will be approved for use in free flowing drainage systems will be those that have been approved by E. P. A. for use in the open environment.

It is highly recommended that only flocculants that are E. P. A. approved for use in potable water supplies are used in areas where domestic water supplies have the potential to be impacted.

This is due to several incidents of upsets and spills of other types of flocculant that have caused environmental problems including fish kills.

Headquarters will notify the two (2) industry associations so that they may disseminate to their respective members.

Please note that this does not apply to closed circuit preparation plant systems.

JCA/cl

cc: West Virginia Coal Association  
West Virginia Mining and Reclamation Association  
Policy Book